

IN THE UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF ALABAMA

2007 APR 4 P 12:00 PM

ALONZO AUSTIN, Executor, for }

ROTH H. LEWIS, Estate. }

Plaintiff(s) }

VS,

MODERN WOMEN OF AMERICA }

et al.

Defendant(s) }

DEBRA P. HACKETT, CLK
U.S. DISTRICT COURT
MIDDLE DISTRICT ALA

CIVIL ACTION NO

3:07-CV-138-MHT-WC

Motion for Summary Judgment by Plaintiff(s) in
response to, Motion to Dismiss by Defendant(s)

Plaintiff(s) pursuant to RULE 56 of the Federal Rules of Civil Procedures moves the court to enter Summary Judgment for the Plaintiff(s) on the grounds that there is no genuine issue as to any material fact and the Plaintiff(s) is entitled to Judgment as a matter of Law.

In support of this motion, Plaintiff(s) refers to the record in this action, including the Complaint, The answer to it and Plaintiff(s), Attached Affidavit and Exhibit "A" unsigned Waiver

by Alonzo Austin, Pro Se

Address: ALONZO AUSTIN, 1321 OLIVER-EARLIS RD, JUSTICE, AL 36083

IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF ALABAMA

ALONZO AUSTIN, Executor, for }
RUTH H. LEWIS, Estate }
Plaintiff(s), }

VS.

MODERN WOODMEN OF AMERICA } CIVIL ACTION NO.
et al, } 3:07-CV-138-MHT-WC
Defendant(s), }

Affidavit in Support of Motion for Summary Judgement

STATE OF ALABAMA } ss.
COUNTY OF MACON }

ALONZO AUSTIN who, being first duly Sworn,
deposes and says:

1. I am ALONZO AUSTIN, and have personal
Knowledge of the facts set forth.

This affidavit is submitted in support of the
Plaintiff(s), motion for Summary Judgement,
for the purpose of showing that there is in
this action no genuine issue as to any
material fact, and that the Plaintiff(s),
is entitled to Judgement as a matter of Law.
As the issue is Constitutional in Nature.

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2. MODERN WOODMEN OF AMERICA, CONTACTED Plaintiff(s), for the first time via Letter on September 4, 1996, it Reads Dear Mr. Austin, our society is currently in the process of up dating our membership records. in the process of updating we have become aware that we have not received any Correspondence from Ms. Lewis in some times. During our attempts to locate Ms. Lewis, your name came up with your address and was made available to us.

3. If you are a relative or acquaintance of Ms. Lewis, we would appreciate you providing any current information which you may have available to you regarding her.

4. you may record this information on the bottom of this Letter and return it to our office in the postage-paid envelope which we have provided.

5. we would ask that you please record Ms. Lewis's date of birth on your reply so we are certain that we are dealing with the correct individual.

6. This letter was from, Craig S. Knobloch Supervisor, Life and health, Claim Department.

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7. Plaintiff(s), subsequently responded to MODERN WOODMEN, request for information concerning MS. Lewis, on October 2, 1996

8. Several Letters and several months later Plaintiff(s)' received a Letter on December 23, 1996 Thanking me, for the documentation most of which is exhibited in Defendant(s)' motion to dismiss, and this Letter is different from the others in that for the very first time I witness a certificate number (top of page) under RUTH H. Lewis Name. This was my first time seeing this Number since February 8 1994, when I last visited MS. Lewis, in her home, and while looking for some money to pay a Contractor for hanging some Sheet Rock for MS. Lewis' Den, at a cost of \$75⁰⁰, it was a welcome site for at the point I realized that MS. Lewis, even tho in her grave she had manage to foil ALL those State Actors and Civilians, Plans and unlawful Schemes, the money was untouchable and out of the State of ALABAMA, and in my Name, with this institutional backing we were finally Vindicated!! Whew!!! WOW!!!! Finally!!

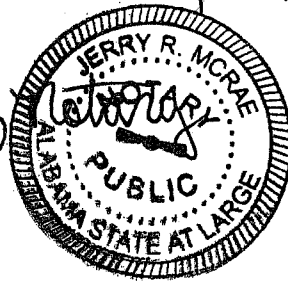
9. The Letter also included forms 22-0, A waiver and E1, Election and included information on processing. Please see Attached "WALVER UNSIGNED" as Exhibit "A"

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10. The 22-0 "Waiver of Certificate Form"
 I could not in good conscious sign because
 of its structured content. For example, I couldn't
 swear under oath as required by waiver
 that the Certificate, last seen by me
 in Ms. Lewis' Metal Safe in her home
 on February 8, 1994, was lost or destroyed.
 Because of Plaintiff's refusal to Waive his
 rights to this Certificate #6737108 for
 more than ten year now, the Defendants decided
 to get around the waiver, by joining the
 other state actors and civilians on 10/31/05
 violating my Constitutional federally protected
 CIVIL RIGHTS. "under the color of state law"
 Given that the property was never abandoned or
 presumed abandon pursuant to ALABAMA unclaimed property Act.
 therefore, absent of a signed waiver, the issue is
 Constitutional in Nature. With actual Damages of \$23,136.45
 plus Exemplary Damages for mail and wire fraud.
 Per Complaint. with interest and COST.

See unsigned Waiver attached as by Alonso Austin, pro se
 Exhibit "A"

Jerry R. McRae,
 Com. Expires 2-28-09



Alonso Austin, pro se

CERTIFICATE OF SERVICE

I hereby Certify that I have Served
a copy of the foregoing document upon
the following by Placing a copy of
the same in the UNITED STATES MAIL,
this 4th day of April, 2007
Postage Prepaid and Properly Addressed
TO: SPAIN & GILLION, LLC
THE ZINSZER BUILDING
2117 Second Avenue North
BIRMINGHAM, AL. 35203

by Alonzo Austin, Pro Se
Alonzo Austin, Pro Se
Alonzo Austin
1321 Oliver-Carlis Rd.
Tuskegee, AL. 36083
Ph.# (334) 727-5476

Exhibit A

WAIVER OF INSURANCE CERTIFICATE

MODERN WOODMEN OF AMERICA
Rock Island, Illinois 61201

From the file
of
Ruth Harkless Lewis
Executive Secretary
Treasurer

(NOTE—The Society's By-Laws provide that all Benefit certificates and riders are to be forwarded to the National Secretary of the Society with the death proofs, and that if any certificate or rider is lost or beyond the beneficiary's control, a waiver thereof shall be filed. The following form of waiver is to be used in such event. The waiver must be signed by all adult beneficiaries and the legally appointed guardian for minor beneficiaries.)

City..... Date.....

State.....

The undersigned do(es) hereby warrant that certificate No. 6737108, issued by
Modern Woodmen of America to Ruth Harkless Lewis in the amount of
\$....., and dated the 20th day of February, 1991,
together with any and all riders issued in conjunction therewith, has been lost or destroyed; that the undersigned
are (is) the sole and only beneficiary..... under said certificate; that neither said certificate or rider(s) has been
transferred or assigned to any person or persons and is not, to the knowledge of the undersigned, in the
possession of any person or persons. The undersigned hereby agree(s) to waive all right, title and interest under
said certificate and all said riders upon payment of benefits provided therein, and agree(s) that same shall be
forwarded to Modern Woodmen of America at Rock Island, Illinois, if same should come into the possession of
any of the undersigned. The undersigned further agree(s) to indemnify said Modern Woodmen of America for
any loss it shall sustain by reason of payment to the undersigned of the proceeds of said certificate and/or riders.

Witness to Claimant's Signature:

Signatures of Claimants:

Address.....

(City, State and Zip Code)